

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 25, 2002

IN RE:

APPROVAL OF THE INTERCONNECTION
AGREEMENT NEGOTIATED BY
BELL SOUTH TELECOMMUNICATIONS,
INC. AND LOADPOINT, LLC PURSUANT
TO SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996

DOCKET NO. 02-00467

ORDER

The *Petition for Approval of the Interconnection Agreement Negotiated Between BellSouth Telecommunications, Inc. and LoadPoint, LLC Pursuant to the Telecommunications Act of 1996* came before the Tennessee Regulatory Authority (the "Authority") at the June 11, 2002 Authority Conference. The Agreement was filed on April 23, 2002 and came before the Authority pursuant to 47 U.S.C. § 252.

The Telecommunications Act of 1996 requires that all interconnection agreements be submitted to the appropriate state commission for approval.¹ The state commission may approve or reject the agreement or it may choose not to act, under which circumstances the agreement will be deemed approved after a statutorily mandated period of time.² A state commission may reject an interconnection agreement if it "discriminates against a telecommunications carrier not a party to the agreement" or if the implementation of the

¹ See 47 U.S.C.A § 252(e)(1)(Supp. 2001)

² See *id.* § 252(e)(4). A negotiated agreement is deemed approved ninety (90) days after its submission for approval and an arbitrated agreement is deemed approved thirty (30) days after its submission for approval.

agreement “is not consistent with the public interest, convenience, and necessity.”³ While neither ground for rejection specifically exists in this case, the Agreement contains language that is inconsistent with previous Authority orders.

Section 5.3.8.2 of Attachment 2 provides that when elements are not currently combined, but are ordinarily combined in BellSouth’s network, “the non-recurring and recurring charges for such UNE combinations shall be the sum of the stand-alone non-recurring and recurring charges of the network elements which make up the combination.”⁴ This section is inconsistent with the Authority’s ruling in Docket No. 97-01262 requiring that “[u]nbundled network elements that are not already combined in BellSouth’s network should be priced at the sum of the unbundled network element prices after adjustments for nonrecurring costs to reflect efficiencies.”⁵

Given these inconsistency, a majority of the Directors voted to take no action on the Agreement.⁶

IT IS THEREFORE ORDERED THAT:

No action shall be taken on the *Petition for Approval of the Interconnection Agreement Negotiated Between BellSouth Telecommunications, Inc. and LoadPoint, LLC Pursuant to the Telecommunications Act of 1996* filed by BellSouth Telecommunications,

³ *Id.* § 252(e)(2).

⁴ *Petition for Approval of the Interconnection Agreement Negotiated Between BellSouth Telecommunications, Inc. and LoadPoint, LLC Pursuant to the Telecommunications Act of 1996*, Exhibit 3, Attachment 2, sec. 5.3.8.2 (Apr. 23, 2002).

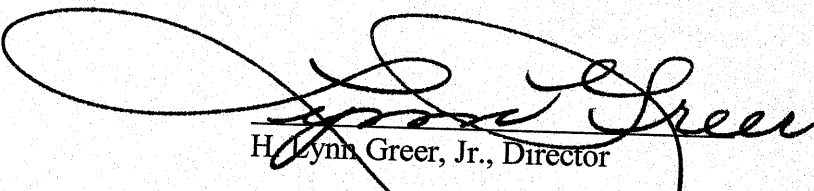
⁵ *In re: Petition of BellSouth Telecommunications, Inc. to Convene a Contested Case to Establish “Permanent Prices” for Interconnection and Unbundled Network Elements*, Docket No. 97-01262, *Correction of Transcript of April 25, 2000 Authority Conference and Erratum to Second Interim Order Re: Revised Cost Studies and Geographic Deaveraging*, p. 2 (Mar. 6, 2001).

⁶ Chairman Kyle did not vote with the majority. Instead, she voted in favor of approval.

Inc. on April 23, 2002. By operation of Section 252(e)(4) of the Telecommunications Act of 1996, the Interconnection Agreement shall be deemed approved on July 22, 2002.

* * * *

Sara Kyle, Chairman

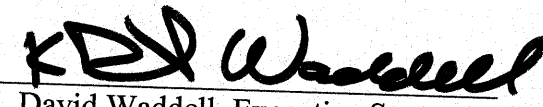


H. Lynn Greer, Jr., Director



Melvin J. Malone, Director

ATTEST:



K. David Waddell, Executive Secretary

**** Chairman Kyle did not vote with the majority. Instead, she voted in favor of approval.